

REMARKS/ARGUMENTS

Reconsideration of this application and entry of the foregoing amendments are respectfully requested.

The claims have been revised to define the invention with additional clarity. Specifically, claim 1 has been amended to indicate that the ether lipid component of the liposome consists essentially of an L-ether lipid. Support for the revision is found, for example, at page 6, lines 16-22 and in the Examples (note particularly Examples 1 and 3-6). Claim 19 has been revised to depend from composition claim 18 rather than liposome claim 1 and to delete the reference to sarcomas and carcinomas. New method claim 23, which also depends from claim 18, has been added and defines the cancer as a sarcoma or carcinoma. New claim 23 thus finds support in claim 19 as originally filed. That the claims have been revised should not be taken as an indication that Applicants agree with any view expressed by the Examiner, rather, the amendments are made merely to advance prosecution and Applicants reserve the right to pursue any deleted subject matter in a continuation application.

Claims 19-22 stand rejected under 35 USC 112, first paragraph, as allegedly being non-enabled. Withdrawal of the rejection is submitted to be in order for the reasons that follow.

At the outset, the Examiner's attention is directed to the fact the language of original claim 19, as it relates to the cancers recited, parallels that of claim 17 of USP 5,762,958, from which the present case depends (attention is also directed to claim 21 of USP 6,667,053 which issued from the parent of the subject application).

Further, the Examiner's attention is directed to the "Background" section of the application which makes it clear that ether lipids have been shown to be effective anti-cancer agents (note, for example, the first full paragraph on page 2 of the application and the numerous

documents cited there supporting the statement that "ether lipids ... have been shown to be effective anti-cancer agents in mammals").

In view of the above, the Examiner is respectfully requested to reconsider his position. It is believed that having done so, he will find withdrawal of the rejection to be in order.

Claims 19-22 stand rejected under 35 USC 112, second paragraph, as allegedly being indefinite. Withdrawal of the rejection is submitted to be in order in view of the above-noted claim revisions. Reconsideration is requested.

Claims 1-22 stand rejected as allegedly representing obviousness-type double patenting over claims 1-24 of USP 6,667,053, claims 1-5 of USP 6,180,137 and claims 1-20 of USP 5,762,958. Claims 1-18 stand rejected as allegedly representing obviousness-type double patenting over claims 1-16 of USP 5,965,159 and claims 1-21 of USP 5,932,242. Claims 19-22 stand rejected as allegedly representing obviousness-type double patenting over claims 1-18 of USP 6,017,557. The possibility of filing Terminal Disclaimers to moot the rejections is noted and the Examiner is urged hold these rejections in abeyance until the case is otherwise in condition for allowance.

Claims 1, 4, 17 and 18 stand rejected under 35 USC 102(b) as allegedly being anticipated by WO 93/08202. Claims 1, 3, 13, 14 and 18 stand rejected under 35 USC 102(b) as allegedly being anticipated by JP 61 22-020. Claims 1, 3, 13, 14 and 18 stand rejected under 35 USC 102(b) as allegedly being anticipated by Pharmazie (Mende et al). Withdrawal of each of these rejections is submitted to be in order for the reasons that follow.

As noted above, claim 1, from which the remaining claims depend, is drawn to a liposome having a lipid bilayer comprising an ether lipid component. Claim 1 as now presented requires that the ether lipid component consist essentially of an L-ether lipid. As the Examiner

appears to appreciate, none of the cited references teaches such a liposome. Accordingly, reconsideration is requested.

Claims 1, 3, 4, 13, 14 and 17-21 stand rejected under 35 USC 103 as allegedly being obvious over JP 61 22-020. Withdrawal of the rejection is submitted to be in order for the reasons that follow.

JP 61 22-020 fails to teach the liposome as now claimed. While the Examiner contends that it would have been obvious that both the D and L forms of the ether lipid, or a mixture, would possess anti-tumor activity, the Examiner provides absolutely no basis to support this assertion. The Examiner is respectfully requested to provide the requisite support or withdraw the rejection.

Claims 1-22 stand rejected under 35 USC 103 as allegedly being obvious over JP 61 22-020 in combination with Schroit. Withdrawal of the rejection is believed to be in order for the reasons that follow.

Again, the primary reference does not teach the liposome as claimed. Nothing in the secondary reference cures this fundamental failing. Accordingly, reconsideration is requested.

Claim 17 and 20-22 stand rejected under 35 USC 103 as allegedly being obvious over JP 61 22-020 in combination with Schroit and Bissery. Withdrawal of the rejection is in order for the reasons that follow.

As pointed out previously, the primary reference fails to teach the claimed liposome comprising an ether lipid consisting essentially of an L-ether lipid. Nothing in Schroit and/or Bissery would have cured this deficiency of the primary citation. Reconsideration is thus requested.

AHMAD et al
Appl. No. 10/647,382
December 15, 2004

This application is submitted to be in condition for allowance and a Notice to that effect is requested.

Respectfully submitted,

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